

AMENDED IN SENATE AUGUST 15, 2005

AMENDED IN SENATE JULY 7, 2005

AMENDED IN SENATE JUNE 21, 2005

AMENDED IN ASSEMBLY APRIL 6, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1261

Introduced by Assembly Member Leno

February 22, 2005

An act to amend Sections 48853, 48853.5, 48859, 49069.5, ~~and 52052, 56034, 56366.1, and 56366.2~~ of the Education Code, and to amend Sections 319, 361, and 391 of the Welfare and Institutions Code, relating to foster children.

LEGISLATIVE COUNSEL'S DIGEST

AB 1261, as amended, Leno. Foster children: education.

Existing law requires a pupil placed in a licensed children's institution or foster family home to attend programs operated by the local educational agency, unless one of certain *specified* circumstances applies.

This bill would revise the applicable circumstances.

The bill would also define "local educational agency" for these purposes.

Existing law provides that, if a school placement dispute arises, a foster child has the right to remain in his or her school of origin pending resolution of the dispute.

This bill would require local educational agencies to have in place a process to promptly resolve disputes relating to the school placement of foster children and would require a written explanation of the

school's decision relating to school placement or enrollment, as specified, to be provided if a parent, guardian, or person holding the right to make educational decisions for the pupil disputes that decision. To the extent this bill would impose additional duties on local educational agencies, the bill would impose a state-mandated local program.

Existing law provides that "school of origin" means the school that the foster child attended when permanently housed or the school in which the foster child was last enrolled. Existing law requires the educational liaison for foster children to determine, as provided, the school that shall be deemed the school of origin for a foster child if, among other things, there is some other school that the foster child attended with which the foster child is connected.

This bill would additionally require that the foster child have attended that connected school in the past 15 months.

Existing law provides that the proper and timely transfer between schools of pupils in foster care is the responsibility of both the local educational agency and the county placing agency and imposes various requirements relating to the transfer of those pupils between schools.

This bill would define "pupil in foster care" for these purposes.

~~Existing law sets forth the circumstances under which a minor may be adjudged a dependent child of the juvenile court, and establishes procedures to determine temporary placement of a dependent child.~~

~~This bill would authorize the court, at the initial hearing or anytime thereafter up until the time that the minor is adjudged a dependent child of the court or a finding is made dismissing the petition, to temporarily limit the right of the parent or guardian to make educational decisions for the child and to temporarily appoint a responsible adult to make educational decisions for the child if all of specified conditions are found. The bill would also authorize the court to make educational decisions for the child under specified circumstances.~~

Existing law establishes the Public Schools Accountability Act of 1999 and requires the Superintendent of Public Instruction to develop an Academic Performance Index (API), which consists, in part, of the results of the tests administered pursuant to the Standardized Testing and Reporting (STAR) Program, to measure the performance of schools, to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and

socioeconomically disadvantaged subgroups within schools, and to rank schools based on the value of the API. Existing law ~~require~~ *requires* the Superintendent of Public Instruction to develop an alternative accountability system for specified schools.

This bill would add nonpublic, nonsectarian schools, as specified, to the list of schools for which development of an alternative accountability system is required. This bill would also delete obsolete provisions.

Existing law defines the term “nonpublic, nonsectarian school” for purposes of special education programs.

This bill would revise that definition.

Existing law requires a nonpublic, nonsectarian school or agency that seeks certification to provide special education and related services to file an application with the Superintendent, as specified. Existing law requires an applicant for certification to provide the special education local plan area in which the applicant is located with written notification of its intent to seek certification or renewal of its certification. Existing law provides that if the applicant has not received a response from the local educational agency 30 days from the date of the return receipt for the notification, the applicant may file the application with the Superintendent. Existing law requires the Superintendent, prior to certification, to conduct an onsite review of the facility and program for which the applicant seeks certification. Existing law requires the Superintendent to conduct an additional onsite review of the facility and program within 4 years of the effective date of the certification, unless a specified exception applies.

This bill would provide that if the applicant has not received a response from the local educational agency 60 calendar days from the date of the return receipt for initial applications or 30 calendar days from the date of the return receipt for renewal applications, the applicant may file the application with the Superintendent. The bill would instead require an additional onsite review within 3 years of the effective date of certification.

Existing law sets forth the circumstances under which a minor may be adjudged a dependent child of the juvenile court, and establishes procedures to determine temporary placement of a dependent child.

This bill would authorize the court, at the initial hearing or anytime thereafter up until the time that the minor is adjudged a dependent child of the court or a finding is made dismissing the petition, to temporarily limit the right of the parent or guardian to make

educational decisions for the child and to temporarily appoint a responsible adult to make educational decisions for the child if all of the specified conditions are found. The bill would also authorize the court to make educational decisions for the child under specified circumstances.

Existing law authorizes a juvenile court to limit the right of a parent or guardian to make educational decisions for his or her child that is adjudged a dependent child of the court and requires the court at the same time to appoint a responsible adult to make educational decisions for the child until one of specified circumstances occurs.

This bill would authorize the court to make educational decisions for the child if the court cannot identify a responsible adult to make educational decisions for the child, the appointment of a surrogate parent is not warranted, and there is no foster parent to exercise the appropriate authority. This bill would require the court, if it makes educational decisions for the child, to issue appropriate orders to ensure that every effort is made to identify a responsible adult to make future educational decisions for the child.

Existing law requires the county welfare department, at any hearing to terminate jurisdiction over a dependent child who has reached the age of majority, to, among other things, submit a report verifying that specified documents, where applicable, have been provided to the child.

This bill would include among those documents a health and education summary.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 48853 of the Education Code is
2 amended to read:

1 48853. (a) A pupil placed in a licensed children's institution
2 or foster family home shall attend programs operated by the local
3 educational agency, unless one of the following applies:

4 (1) The pupil is entitled to remain in his or her school of origin
5 pursuant to paragraph (1) of subdivision (d) of Section 48853.5.

6 (2) The pupil has an individualized education program
7 requiring placement in a nonpublic, nonsectarian school or
8 agency, or in another local educational agency.

9 (3) The parent or guardian, or other person holding the right to
10 make educational decisions for the pupil pursuant to Section 361
11 or 727 of the Welfare and Institutions Code or Section 56055,
12 determines that it is in the best interests of the pupil to be placed
13 in another educational program.

14 (b) Before any decision is made to place a pupil in a juvenile
15 court school as defined by Section 48645.1, a community school
16 as described in Sections 1981 and 48660, or other alternative
17 educational setting, the parent or guardian, or person holding the
18 right to make educational decisions for the pupil pursuant to
19 Section 361 or 726 of the Welfare and Institutions Code or
20 Section 56055, shall first consider placement in the regular
21 public school.

22 (c) (1) A local educational agency shall have in place a
23 process to promptly resolve disputes relating to the school
24 placement of a pupil subject to this section.

25 (2) A written explanation of the school's decision shall be
26 provided if a parent, guardian, or person holding the right to
27 make educational decisions for the pupil disputes a school
28 placement or enrollment decision. The written explanation shall
29 include a discussion of the right of the parent, guardian, or person
30 holding the right to make educational decisions for the pupil to
31 appeal the decision.

32 (3) If any dispute arises as to the school placement of a pupil
33 subject to this section, the pupil has the right to remain in his or
34 her school of origin, as defined in subdivision (e) of Section
35 48853.5, pending resolution of the dispute.

36 (4) The school shall refer the parent, guardian, or person
37 holding the right to make educational decisions for the pupil to
38 the educational liaison described in subdivision (b) of Section
39 48853.5 to carry out the dispute resolution process as
40 expeditiously as possible.

1 (d) This section does not supersede other laws that govern
2 pupil expulsion.

3 (e) This section does not supersede any other law governing
4 the educational placement in a juvenile court school, as defined
5 by Section 48645.1, of a pupil detained in a county juvenile hall,
6 or committed to a county juvenile ranch, camp, forestry camp, or
7 regional facility.

8 (f) Foster children living in emergency shelters, as referenced
9 in the federal McKinney-Vento Homeless Assistance Act (42
10 U.S.C. Sec. 11431 et seq.), may receive educational services at
11 the emergency shelter as necessary for short periods of time for
12 either of the following reasons:

13 (1) For health and safety emergencies.

14 (2) To provide temporary, special, and supplementary services
15 to meet the child's unique needs if a decision regarding whether
16 it is in the child's best interests to attend the school of origin
17 cannot be made promptly, it is not practical to transport the child
18 to the school of origin, and the child would otherwise not receive
19 educational services.

20 The educational services may be provided at the shelter
21 pending a determination by the person holding the right
22 regarding the educational placement of the child.

23 (g) All educational and school placement decisions shall be
24 made to ensure that the child is placed in the least restrictive
25 educational programs and has access to academic resources,
26 services, and extracurricular and enrichment activities that are
27 available to all pupils. In all instances, educational and school
28 placement decisions shall be based on the best interests of the
29 child.

30 SEC. 2. Section 48853.5 of the Education Code is amended to
31 read:

32 48853.5. (a) This section applies to any foster child who has
33 been removed from his or her home pursuant to Section 309 of
34 the Welfare and Institutions Code, is the subject of a petition
35 filed under Section 300 or 602 of the Welfare and Institutions
36 Code, or has been removed from his or her home and is the
37 subject of a petition filed under Section 300 or 602 of the
38 Welfare and Institutions Code.

39 (b) Each local educational agency shall designate a staff
40 person as the educational liaison for foster children. In a school

1 district that operates a foster children services program pursuant
2 to Chapter 11.3 (commencing with Section 42920) of Part 24, the
3 educational liaison shall be affiliated with the local foster
4 children services program. The liaison shall do all of the
5 following:

6 (1) Ensure and facilitate the proper educational placement,
7 enrollment in school, and checkout from school of foster
8 children.

9 (2) Assist foster children when transferring from one school to
10 another or from one school district to another in ensuring proper
11 transfer of credits, records, and grades.

12 (c) This section does not grant authority to the educational
13 liaison that supersedes the authority granted under state and
14 federal law to a parent or guardian retaining educational rights, a
15 responsible adult appointed by the court to represent the child
16 pursuant to Section 361 or 726 of the Welfare and Institutions
17 Code, a surrogate parent, or a foster parent exercising the
18 authority granted under Section 56055. The role of the
19 educational liaison is advisory with respect to placement
20 decisions and determination of school of origin.

21 (d) (1) At the initial detention or placement, or any
22 subsequent change in placement of a foster child, the local
23 educational agency serving the foster child shall allow the foster
24 child to continue his or her education in the school of origin for
25 the duration of the academic school year.

26 (2) The liaison, in consultation with and the agreement of the
27 foster child and the person holding the right to make educational
28 decisions for the foster child may, in accordance with the foster
29 child's best interests, recommend that the foster child's right to
30 attend the school of origin be waived and the foster child be
31 enrolled in any public school that pupils living in the attendance
32 area in which the foster child resides are eligible to attend.

33 (3) Prior to making any recommendation to move a foster
34 child from his or her school of origin, the liaison shall provide
35 the foster child and the person holding the right to make
36 educational decisions for the foster child with a written
37 explanation stating the basis for the recommendation and how
38 this recommendation serves the foster child's best interest.

39 (4) (A) If the liaison in consultation with the foster child and
40 the person holding the right to make educational decisions for the

1 foster child agree that the best interests of the foster child would
2 best be served by his or her transfer to a school other than the
3 school of origin, the foster child shall immediately be enrolled in
4 the new school.

5 (B) The new school shall immediately enroll the foster child
6 even if the foster child has outstanding fees, fines, textbooks, or
7 other items or moneys due to the school last attended or is unable
8 to produce records or clothing normally required for enrollment,
9 such as previous academic records, medical records, proof of
10 residency, other documentation, or school uniforms.

11 (C) The liaison for the new school shall, within two business
12 days of the foster child's request for enrollment, contact the
13 school last attended by the foster child to obtain all academic and
14 other records. All required records shall be provided to the new
15 school regardless of any outstanding fees, fines, textbooks, or
16 other items or moneys owed to the school last attended. The
17 school liaison for the school last attended shall provide all
18 records to the new school within two business days of receiving
19 the request.

20 (5) If any dispute arises regarding the request of a foster child
21 to remain in the school of origin, the foster child has the right to
22 remain in the school of origin pending resolution of the dispute.
23 The dispute shall be resolved in accordance with the existing
24 dispute resolution process available to any pupil served by the
25 local educational agency.

26 (6) The local educational agency and the county placing
27 agency are encouraged to collaborate to ensure maximum
28 utilization of available federal moneys, explore public-private
29 partnerships, and access any other funding sources to promote
30 the well-being of foster children through educational stability.

31 (e) For purposes of this section, "school of origin" means the
32 school that the foster child attended when permanently housed or
33 the school in which the foster child was last enrolled. If the
34 school the foster child attended when permanently housed is
35 different from the school in which the foster child was last
36 enrolled, or if there is some other school that the foster child
37 attended with which the foster child is connected and which the
38 foster child attended within the immediately preceding 15
39 months, the liaison, in consultation with and the agreement of the
40 foster child and the person holding the right to make educational

1 decisions for the foster child, shall determine, in the best interests
2 of the foster child, the school that shall be deemed the school of
3 origin.

4 (f) This section does not supersede other law governing the
5 educational placements in juvenile court schools, as defined by
6 Section 48645.1, by the juvenile court under Section 602 of the
7 Welfare and Institutions Code.

8 SEC. 3. Section 48859 of the Education Code is amended to
9 read:

10 48859. For purposes of this chapter, the following terms have
11 the following meanings:

12 (a) "County placing agency" means the county social services
13 department or county probation department.

14 (b) "Educational authority" means an entity designated to
15 represent the interests of a child for educational and related
16 services.

17 (c) "Local educational agency" means a school district, a
18 county office of education, a charter school participating as a
19 member of a special education local plan area, or a special
20 education local plan area.

21 SEC. 4. Section 49069.5 of the Education Code is amended to
22 read:

23 49069.5. (a) The Legislature finds and declares that the
24 mobility of pupils in foster care often disrupts their educational
25 experience. The Legislature also finds that efficient transfer
26 procedures and transfer of pupil records is a critical factor in the
27 swift placement of foster children in educational settings.

28 (b) The proper and timely transfer between schools of pupils
29 in foster care is the responsibility of both the local educational
30 agency and the county placing agency.

31 (c) As soon as the county placing agency becomes aware of
32 the need to transfer a pupil in foster care out of his or her current
33 school, the county placing agency shall contact the appropriate
34 person at the local educational agency of the pupil. The county
35 placing agency shall notify the local educational agency of the
36 date that the pupil will be leaving the school and request that the
37 pupil be transferred out.

38 (d) Upon receiving a transfer request from a county placing
39 agency, the local educational agency shall, within two business
40 days, transfer the pupil out of school and deliver the educational

1 information and records of the pupil to the next educational
2 placement.

3 (e) As part of the transfer process described under
4 subdivisions (c) and (d), the local educational agency shall
5 compile the complete educational record of the pupil including a
6 determination of seat time, full or partial credits earned, current
7 classes and grades, immunization and other records, and, if
8 applicable, a copy of the pupil's plan adopted pursuant to Section
9 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794
10 et seq.) or individualized education program adopted pursuant to
11 the federal Individuals with Disabilities Education Act (20
12 U.S.C. Sec. 1400 et seq.).

13 (f) The local educational agency shall assign the duties listed
14 in this section to a person competent to handle the transfer
15 procedure and aware of the specific educational recordkeeping
16 needs of homeless, foster, and other transient children who
17 transfer between schools.

18 (g) The local educational agency shall ensure that if the pupil
19 in foster care is absent from school due to a decision to change
20 the placement of a pupil made by a court or placing agency, the
21 grades and credits of the pupil will be calculated as of the date
22 the pupil left school, and no lowering of grades will occur as a
23 result of the absence of the pupil under these circumstances.

24 (h) The local educational agency shall ensure that if the pupil
25 in foster care is absent from school due to a verified court
26 appearance or related court ordered activity, no lowering of his or
27 her grades will occur as a result of the absence of the pupil under
28 these circumstances.

29 (i) For the purposes of this section, "pupil in foster care"
30 means any child who has been removed from his or her home
31 pursuant to Section 309 of the Welfare and Institutions Code, is
32 the subject of a petition filed under Section 300 or 602 of the
33 Welfare and Institutions Code, or has been removed from his or
34 her home and is the subject of a petition filed under Section 300
35 or 602 of the Welfare and Institutions Code.

36 SEC. 5. Section 52052 of the Education Code is amended to
37 read:

38 52052. (a) (1) ~~The Superintendent of Public Instruction,~~
39 with approval of the State Board of Education, shall develop an

1 Academic Performance Index (API), to measure the performance
2 of schools, especially the academic performance of pupils.

3 (2) A school shall demonstrate comparable improvement in
4 academic achievement as measured by the API by all
5 numerically significant pupil subgroups at the school, including:

6 (A) Ethnic subgroups.

7 (B) Socioeconomically disadvantaged pupils.

8 (C) English language learners.

9 (D) Pupils with disabilities.

10 (3) (A) For purposes of this section, a numerically significant
11 pupil subgroup is one that meets both of the following criteria:

12 (i) The subgroup consists of at least 50 pupils each of whom
13 has a valid test score.

14 (ii) The subgroup constitutes at least 15 percent of a school's
15 total population of pupils who have valid test scores.

16 (B) If a subgroup does not constitute 15 percent of the
17 school's total population of pupils with valid test scores, the
18 subgroup may constitute a numerically significant pupil subgroup
19 if it has at least 100 valid test scores.

20 (C) For a school with an API score that is based on no fewer
21 than 11 and no more than 99 pupils with valid test scores,
22 numerically significant subgroups shall be defined by the
23 Superintendent of Public Instruction, with approval by the State
24 Board of Education.

25 (4) The API shall consist of a variety of indicators currently
26 reported to the department, including, but not limited to, the
27 results of the achievement test administered pursuant to Section
28 60640, attendance rates for pupils in elementary schools, middle
29 schools, and secondary schools, and the graduation rates for
30 pupils in secondary schools.

31 (A) The pupil data collected for the API that comes from the
32 achievement test administered pursuant to Sections 60640 and
33 60644 and the high school exit examination administered
34 pursuant to Section 60851, when fully implemented, shall be
35 disaggregated by special education status, English language
36 learners, socioeconomic status, gender and ethnic group. Only
37 the test scores of pupils who were counted as part of the
38 enrollment in the annual California Basic Education Data
39 System's data collection for the current fiscal year and who were
40 continuously enrolled during that year may be included in the test

1 result reports in the school's API. Results of the achievement test
2 and other tests specified in subdivision (b) shall constitute at least
3 60 percent of the value of the index.

4 (B) Before including high school graduation rates and
5 attendance rates in the index, the Superintendent of Public
6 Instruction shall determine the extent to which the data are
7 currently reported to the state and the accuracy of the data.

8 (b) Pupil scores from the following tests, when available and
9 when found to be valid and reliable for this purpose, shall be
10 incorporated into the API:

11 (1) The assessment of the applied academic skills matrix test
12 developed pursuant to Section 60604.

13 (2) The nationally normed test designated pursuant to Section
14 60642.

15 (3) The standards-based achievement tests provided for in
16 Section 60642.5.

17 (4) The high school exit examination.

18 (c) Based on the API, the Superintendent of Public Instruction
19 shall develop, and the State Board of Education shall adopt,
20 expected annual percentage growth targets for all schools based
21 on their API baseline score from the previous year. Schools are
22 expected to meet these growth targets through effective
23 allocation of available resources. For schools below the statewide
24 API performance target adopted by the State Board of Education
25 pursuant to subdivision (d), the minimum annual percentage
26 growth target shall be 5 percent of the difference between a
27 school's actual API score and the statewide API performance
28 target, or one API point, whichever is greater. Schools at or
29 above the statewide API performance target shall have, as their
30 growth target, maintenance of their API score above the
31 statewide API performance target. However, the State Board of
32 Education may set differential growth targets based on grade
33 level of instruction and may set higher growth targets for the
34 lowest performing schools because they have the greatest room
35 for improvement. To meet its growth target, a school shall
36 demonstrate that the annual growth in its API is equal to or more
37 than its schoolwide annual percentage growth target and that all
38 numerically significant pupil subgroups, as defined in
39 subdivision (a), are making comparable improvement.

(d) Upon adoption of state performance standards by the State Board of Education, the Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt, a statewide API performance target that includes consideration of performance standards and represents the proficiency level required to meet the state performance target. When the API is fully developed, schools must, at a minimum, meet their annual API growth targets to be eligible for the Governor's Performance Award Program as set forth in Section 52057. The State Board of Education may establish additional criteria that schools must meet to be eligible for the Governor's Performance Awards Award Program.

(e) The API shall be used for both of the following:

(1) Measuring the progress of schools selected for participation in the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053.

(2) Ranking all public schools in the state for the purpose of the High Achieving/Improving Schools Program pursuant to Section 52056.

(f) (1) A school with 11 to 99 pupils with valid test scores shall receive an API score with an asterisk that indicates less statistical certainty than API scores based on 100 or more test scores.

(2) A school shall annually receive an API score, unless the Superintendent of Public Instruction determines that an API score would be an invalid measure of the school's performance for one or more of the following reasons:

(A) Irregularities in testing procedures occurred.

(B) The data used to calculate the school's API score are not representative of the pupil population at the school.

(C) Significant demographic changes in the pupil population render year-to-year comparisons of pupil performance invalid.

(D) The department discovers or receives information indicating that the integrity of the API score has been compromised.

(E) Insufficient pupil participation in the assessments included in the API.

(3) If a school has less than 100 pupils with valid test scores, the calculation of the API or adequate yearly progress pursuant to the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec.

1 6301 et seq.) and federal regulations may be calculated over
2 more than one annual administration of the tests administered
3 pursuant to Sections 60640 and 60644 and the high school exit
4 exam administered pursuant to Section 60851, consistent with
5 regulations adopted by the State Board of Education.

6 (g) Only schools with 100 or more test scores contributing to
7 the API may be included in the API rankings.

8 (h) The Superintendent ~~of Public Instruction~~, with the
9 approval of the State Board of Education, shall develop an
10 alternative accountability system for schools under the
11 jurisdiction of a county board of education or a county
12 superintendent of schools, community day schools, nonpublic,
13 nonsectarian schools pursuant to Section 56366, and alternative
14 schools serving high-risk pupils, including continuation high
15 schools and opportunity schools. Schools in the alternative
16 accountability system may receive an API score, but shall not be
17 included in the API rankings.

18 *SEC. 6. Section 56034 of the Education Code is amended to*
19 *read:*

20 56034. "Nonpublic, nonsectarian school" means a private,
21 nonsectarian school that enrolls individuals with exceptional
22 needs pursuant to an individualized education program, ~~employs~~
23 ~~at least one full-time teacher who holds an appropriate credential~~
24 ~~authorizing special education services~~, and is certified by the
25 department. It does not include an organization or agency that
26 operates as a public agency or offers public service, including,
27 but not limited to, a state or local agency, an affiliate of a state or
28 local agency, including a private, nonprofit corporation
29 established or operated by a state or local agency, or a public
30 university or college. A nonpublic, nonsectarian school also shall
31 meet standards as prescribed by the ~~superintendent~~
32 *Superintendent* and board.

33 *SEC. 7. Section 56366.1 of the Education Code is amended to*
34 *read:*

35 56366.1. (a) A nonpublic, nonsectarian school or agency that
36 seeks certification shall file an application with the
37 ~~superintendent~~ *Superintendent* on forms provided by the
38 department and include the following information on the
39 application:

1 (1) A description of the special education and designated
2 instruction and services provided to individuals with exceptional
3 needs if the application is for nonpublic, nonsectarian school
4 certification.

5 (2) A description of the designated instruction and services
6 provided to individuals with exceptional needs if the application
7 is for nonpublic, nonsectarian agency certification.

8 (3) A list of appropriately qualified staff, a description of the
9 credential, license, or registration that qualifies each staff
10 member rendering special education or designated instruction
11 and services to do so, and copies of their credentials, licenses, or
12 certificates of registration with the appropriate state or national
13 organization that has established standards for the service
14 rendered.

15 (4) An annual operating budget.

16 (5) Affidavits and assurances necessary to comply with all
17 applicable federal, state, and local laws and regulations which
18 include criminal record summaries required of all nonpublic
19 school or agency personnel having contact with minor children
20 under Section 44237.

21 (b) (1) The applicant shall provide the special education local
22 plan area in which the applicant is located with the written
23 notification of its intent to seek certification or renewal of its
24 certification. The applicant shall submit on a form, developed by
25 the department, a signed verification by local educational agency
26 representatives that they have been notified of the intent to
27 certify or renew certification. The verification shall include a
28 statement that *representatives of the* local educational agency
29 ~~representatives for the area~~ in which the applicant is located have
30 had the opportunity to review the application at least 60 calendar
31 days prior to submission of an initial application to the
32 ~~superintendent~~ *Superintendent*, or at least 30 calendar days prior
33 to submission of a renewal application to the ~~superintendent~~
34 *Superintendent*. The signed verification shall provide assurances
35 that local educational agency representatives have had the
36 opportunity to provide input on all required components of the
37 application.

38 (2) If the applicant has not received a response from the local
39 educational agency *60 calendar days from the date of the return*
40 *receipt for initial applications or 30 calendar days from the date*

1 of the return receipt *for renewal applications*, the applicant may
2 file the application with the ~~superintendent~~ *Superintendent*. A
3 copy of the return receipt shall be included with the application
4 as verification of notification efforts to the local educational
5 agency.

6 (3) The department shall mail renewal application materials to
7 certified nonpublic, nonsectarian schools and agencies at least
8 120 days prior to the date their current certification expires.

9 (c) If the applicant operates a facility or program on more than
10 one site, each site shall be certified.

11 (d) If the applicant is part of a larger program or facility on the
12 same site, the ~~superintendent~~ *Superintendent* shall consider the
13 effect of the total program on the applicant. A copy of the
14 policies and standards for the nonpublic, nonsectarian school or
15 agency and the larger program shall be available to the
16 ~~superintendent~~ *Superintendent*.

17 (e) Prior to certification, the ~~superintendent~~ *Superintendent*
18 shall conduct an onsite review of the facility and program for
19 which the applicant seeks certification. The ~~superintendent~~
20 *Superintendent* may be assisted by representatives of the special
21 education local plan area in which the applicant is located and a
22 nonpublic, nonsectarian school or agency representative who
23 does not have a conflict of interest with the applicant. The
24 ~~superintendent~~ *Superintendent* shall conduct an additional onsite
25 review of the facility and program within ~~four~~ *three* years of the
26 *effective date of the certification* ~~effective date~~, unless the
27 ~~superintendent~~ *Superintendent* conditionally certifies the school
28 or agency or unless the ~~superintendent~~ *Superintendent* receives a
29 formal complaint against the school or agency. In the latter two
30 cases, the ~~superintendent~~ *Superintendent* shall conduct an onsite
31 review at least annually.

32 (f) The ~~superintendent~~ *Superintendent* shall make a
33 determination on an application within 120 days of receipt of the
34 application and shall certify, conditionally certify, or deny
35 certification to the applicant. If the ~~superintendent~~
36 *Superintendent* fails to take one of these actions within 120 days,
37 the applicant is automatically granted conditional certification for
38 a period terminating on August 31, of the current school year. If
39 certification is denied, the ~~superintendent~~ *Superintendent* shall
40 provide reasons for the denial. The ~~superintendent~~

1 *Superintendent* may certify the school or agency for a period of
2 not longer than one year.

3 (g) Certification becomes effective on the date the nonpublic,
4 nonsectarian school or agency meets all the application
5 requirements and is approved by the ~~superintendent~~
6 *Superintendent*. Certification may be retroactive if the school or
7 agency met all the requirements of this section on the date the
8 retroactive certification is effective. Certification expires on
9 December 31 of the terminating year.

10 (h) The ~~superintendent~~ *Superintendent* shall annually review
11 the certification of each nonpublic, nonsectarian school and
12 agency. For this purpose, a certified school or agency shall
13 annually update its application between August 1 and October
14 31, unless the board grants a waiver pursuant to Section 56101.
15 The ~~superintendent~~ *Superintendent* may conduct an onsite review
16 as part of the annual review.

17 (i) (1) The ~~superintendent~~ *Superintendent* shall conduct an
18 investigation of a nonpublic, nonsectarian school or agency
19 onsite at any time without prior notice if there is substantial
20 reason to believe that there is an immediate danger to the health,
21 safety, or welfare of a child. The ~~superintendent~~ *Superintendent*
22 shall document the concern and submit it to the nonpublic,
23 nonsectarian school or agency at the time of the onsite
24 investigation. The ~~superintendent~~ *Superintendent* shall require a
25 written response to any noncompliance or deficiency found.

26 (2) With respect to a nonpublic, nonsectarian school, the
27 ~~superintendent~~ *Superintendent* shall conduct an investigation,
28 which may include an unannounced onsite visit, if the
29 ~~superintendent~~ *Superintendent* receives evidence of a significant
30 deficiency in the quality of educational services provided ~~or~~, a
31 violation of Section 56366.9, or noncompliance with the policies
32 expressed by subdivision (b) of Section 1501 of the Health and
33 Safety Code by the nonpublic, nonsectarian school. The
34 ~~superintendent~~ *Superintendent* shall document the complaint and
35 the results of the investigation and shall provide copies of the
36 documentation to the complainant, the nonpublic, nonsectarian
37 school, and the contracting local educational agency.

38 (3) Violations or noncompliance documented pursuant to
39 paragraph (1) or (2) shall be reflected in the status of the
40 certification of the school, at the discretion of the ~~superintendent~~

1 *Superintendent*, pending an approved plan of correction by the
2 nonpublic, nonsectarian school. The department shall retain for a
3 period of 10 years, all violations pertaining to certification of the
4 nonpublic, nonsectarian school or agency.

5 (j) ~~The superintendent~~ *Superintendent* shall monitor the
6 facilities, the educational environment, and the quality of the
7 educational program, including the teaching staff, the credentials
8 authorizing service, the standards-based core curriculum being
9 employed, and the standard focused instructional materials used,
10 of an existing certified nonpublic, nonsectarian school or agency
11 on a three-year cycle, as follows:

12 (1) The nonpublic, nonsectarian school or agency shall
13 complete a self-review in year one.

14 (2) ~~The superintendent~~ *Superintendent* shall conduct an onsite
15 review of the nonpublic, nonsectarian school or agency in year
16 two.

17 (3) ~~The superintendent~~ *Superintendent* shall conduct a
18 followup visit to the nonpublic, nonsectarian school or agency in
19 year three.

20 (k) (1) Notwithstanding any other provision of law, the
21 ~~superintendent~~ *Superintendent* may not certify a nonpublic,
22 nonsectarian school or agency that proposes to initiate or expand
23 services to pupils currently educated in the immediate prior fiscal
24 year in a juvenile court program, community school pursuant to
25 Section 56150, or other nonspecial education program, including
26 independent study or adult school, or both, unless the nonpublic,
27 nonsectarian school or agency notifies the county superintendent
28 of schools and the special education local plan area in which the
29 proposed new or expanded nonpublic, nonsectarian school or
30 agency is located of its intent to seek certification.

31 (2) The notification shall occur no later than the December 1
32 prior to the new fiscal year in which the proposed or expanding
33 school or agency intends to initiate services. The notice shall
34 include the following:

35 (A) The specific date upon which the proposed nonpublic,
36 nonsectarian school or agency is to be established.

37 (B) The location of the proposed program or facility.

38 (C) The number of pupils proposed for services, the number of
39 pupils currently served in the juvenile court, community school,
40 or other nonspecial education program, the current school

1 services including special education and related services
2 provided for these pupils, and the specific program of special
3 education and related services to be provided under the proposed
4 program.

5 (D) The reason for the proposed change in services.

6 (E) The number of staff that will provide special education and
7 designated instruction and services and hold a current valid
8 California credential or license in the service rendered or
9 certificate of registration to provide occupational therapy.

10 (3) In addition to the requirements in subdivisions (a) through
11 to (f), inclusive, the ~~superintendent~~ *Superintendent* shall require
12 and consider the following in determining whether to certify a
13 nonpublic, nonsectarian school or agency as described in this
14 subdivision:

15 (A) A complete statement of the information required as part
16 of the notice under paragraph (1).

17 (B) Documentation of the steps taken in preparation for the
18 conversion to a nonpublic, nonsectarian school or agency,
19 including information related to changes in the population to be
20 served and the services to be provided pursuant to each pupil's
21 individualized education program.

22 (4) Notwithstanding any other provision of law, the
23 certification becomes effective no earlier than July 1; if the
24 school or agency provided the notification required pursuant to
25 paragraph (1).

26 (I) (1) Commencing July 1, 2006, notwithstanding any other
27 provision of law, the ~~superintendent~~ *Superintendent* may not
28 certify or renew the certification of a nonpublic, nonsectarian
29 school or agency, unless all of the following conditions are met:

30 (A) The entity operating the nonpublic, nonsectarian school or
31 agency maintains separate financial records for each entity that it
32 operates, with each nonpublic, nonsectarian school or agency
33 identified separately from any licensed children's institution that
34 it operates.

35 (B) The entity submits an annual budget that identifies the
36 projected costs and revenues for each entity and demonstrates
37 that the rates to be charged are reasonable to support the
38 operation of the entity.

39 (C) The entity submits an entity-wide annual audit that
40 identifies its costs and revenues, by entity, in accordance with

generally accepted accounting and auditing principles. The audit shall clearly document the amount of moneys received and expended on the education program provided by the nonpublic, nonsectarian school.

(D) The relationship between various entities operated by the same entity are documented, defining the responsibilities of the entities. The documentation shall clearly identify the services to be provided as part of each program, for example, the residential or medical program, the mental health program, or the educational program. The entity shall not seek funding from a public agency for a service, either separately or as part of a package of services, if the service is funded by another public agency, either separately or as part of a package of services.

(2) For purposes of this section, the term ~~licensed~~ “*licensed children’s-institution institution*” has the same meaning as it is defined by Section 56155.5.

(m) The school or agency shall be charged a reasonable fee for certification. The ~~superintendent~~ *Superintendent* may adjust the fee annually commensurate with the statewide average percentage inflation adjustment computed for revenue limits of unified school districts with greater than 1,500 units of average daily attendance if the percentage increase is reflected in the district revenue limit for inflation purposes. For purposes of this section, the base fee shall be the following:

(1) 1-5 pupils	\$ 300
(2) 6-10 pupils	500
(3) 11-24 pupils	1,000
(4) 25-75 pupils	1,500
(5) 76 pupils and over	2,000

The school or agency shall pay this fee when it applies for certification and when it updates its application for annual review by the ~~superintendent~~ *Superintendent*. The ~~superintendent~~ *Superintendent* shall use these fees to conduct onsite reviews, which may include field experts. No fee shall be refunded if the application is withdrawn or is denied by the ~~superintendent~~ *Superintendent*.

(n) (1) Notwithstanding any other provision of law, only those nonpublic, nonsectarian schools and agencies that provide special

1 education and designated instruction and services utilizing staff
2 who hold a certificate, permit, or other document equivalent to
3 that which staff in a public school are required to hold in the
4 service rendered are eligible to receive certification. Only those
5 nonpublic, nonsectarian schools or agencies located outside of
6 California that employ staff who hold a current valid credential
7 or license to render special education and related services as
8 required by that state shall be eligible to be certified.

9 (2) The ~~state~~ board shall develop regulations to implement this
10 subdivision.

11 (o) In addition to meeting the standards adopted by the board,
12 a nonpublic, nonsectarian school or agency shall provide written
13 assurances that it meets all applicable standards relating to fire,
14 health, sanitation, and building safety.

15 *SEC. 8. Section 56366.2 of the Education Code is amended to*
16 *read:*

17 56366.2. (a) A district, special education local plan area,
18 county office, nonpublic, nonsectarian school, or nonpublic,
19 nonsectarian agency may petition the ~~superintendent~~
20 *Superintendent* to waive one or more of the requirements under
21 Sections 56365, 56366, 56366.3, and 56366.6, ~~and 56366.7~~. The
22 petition shall state the reasons for the waiver request, and shall
23 include the following:

24 (1) Sufficient documentation to demonstrate that the waiver is
25 necessary to the content and implementation of a specific pupil's
26 individualized education program and the pupil's current
27 placement.

28 (2) The period of time that the waiver will be effective during
29 any one school year.

30 (3) Documentation and assurance that the waiver does not
31 abrogate any right provided individuals with exceptional needs
32 and their parents or guardians under state or federal law, and
33 does not hinder the compliance of a district, special education
34 local plan area, or county office with the Individuals with
35 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section
36 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), the
37 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101
38 et seq.), and federal regulations relating thereto.

39 (b) No waiver shall be granted for reimbursement of those
40 costs prohibited under Article 4 (commencing with Section

1 56836.20) of Chapter 7.2 of Part 30 or for the certification
2 requirements pursuant to Section 56366.1 unless approved by the
3 board pursuant to Section 56101.

4 (c) In submitting the annual report on waivers granted under
5 Section 56101 and this section to the ~~State Board of Education~~
6 ~~board, the—superintendent~~ *Superintendent* shall specify
7 information related to the provision of special education and
8 related services to individuals with exceptional needs through
9 contracts with nonpublic, nonsectarian schools and agencies
10 located in the state, nonpublic, nonsectarian school and agency
11 placements in facilities located out of state, and the specific
12 section waived pursuant to this section.

13 ~~SEC. 6.~~

14 *SEC. 9.* Section 319 of the Welfare and Institutions Code is
15 amended to read:

16 319. (a) At the initial petition hearing, the court shall
17 examine the child's parents, guardians, or other persons having
18 relevant knowledge and hear the relevant evidence as the child,
19 the child's parents or guardians, the petitioner, or their counsel
20 desires to present. The court may examine the child, as provided
21 in Section 350.

22 (b) The social worker shall report to the court on the reasons
23 why the child has been removed from the parent's physical
24 custody; the need, if any, for continued detention; the available
25 services and the referral methods to those services that could
26 facilitate the return of the child to the custody of the child's
27 parents or guardians; and whether there are any relatives who are
28 able and willing to take temporary physical custody of the child.
29 The court shall order the release of the child from custody unless
30 a prima facie showing has been made that the child comes within
31 Section 300, the court finds that continuance in the parent's or
32 guardian's home is contrary to the child's welfare, and any of the
33 following circumstances exist:

34 (1) There is a substantial danger to the physical health of the
35 child or the child is suffering severe emotional damage, and there
36 are no reasonable means by which the child's physical or
37 emotional health may be protected without removing the child
38 from the parent's or guardian's physical custody.

39 (2) There is substantial evidence that a parent, guardian, or
40 custodian of the child is likely to flee the jurisdiction of the court.

1 (3) The child has left a placement in which he or she was
2 placed by the juvenile court.

3 (4) The child indicates an unwillingness to return home, if the
4 child has been physically or sexually abused by a person residing
5 in the home.

6 (c) If the matter is continued pursuant to Section 322 or for
7 any other reason, the court shall find that the continuance of the
8 child in the parent's or guardian's home is contrary to the child's
9 welfare at the initial petition hearing or order the release of the
10 child from custody.

11 (d) (1) The court shall also make a determination on the
12 record, referencing the social worker's report or other evidence
13 relied upon, as to whether reasonable efforts were made to
14 prevent or eliminate the need for removal of the child from his or
15 her home, pursuant to subdivision (b) of Section 306, and
16 whether there are available services that would prevent the need
17 for further detention. Services to be considered for purposes of
18 making this determination are case management, counseling,
19 emergency shelter care, emergency in-home caretakers,
20 out-of-home respite care, teaching and demonstrating
21 homemakers, parenting training, transportation, and any other
22 child welfare services authorized by the State Department of
23 Social Services pursuant to Chapter 5 (commencing with Section
24 16500) of Part 4 of Division 9. The court shall also review
25 whether the social worker has considered whether a referral to
26 public assistance services pursuant to Chapter 2 (commencing
27 with Section 11200) and Chapter 7 (commencing with Section
28 14000) of Part 3, Chapter 1 (commencing with Section 17000) of
29 Part 5, and Chapter 10 (commencing with Section 18900) of Part
30 6 of Division 9 would have eliminated the need to take temporary
31 custody of the child or would prevent the need for further
32 detention.

33 (2) If the child can be returned to the custody of his or her
34 parent or guardian through the provision of those services, the
35 court shall place the child with his or her parent or guardian and
36 order that the services shall be provided. If the child cannot be
37 returned to the physical custody of his or her parent or guardian,
38 the court shall determine if there is a relative who is able and
39 willing to care for the child, and has been assessed pursuant to
40 paragraph (1) of subdivision (d) of Section 309.

(e) Whenever a court orders a child detained, the court shall state the facts on which the decision is based, shall specify why the initial removal was necessary, shall reference the social worker's report or other evidence relied upon to make its determination whether continuance in the home of the parent or legal guardian in contrary to the child's welfare, shall order temporary placement and care of the child to be vested with the county child welfare department pending the hearing held pursuant to Section 355 or further order of the court, and shall order services to be provided as soon as possible to reunify the child and his or her family if appropriate.

(f) When the child is not released from custody, the court may order that the child shall be placed in the assessed home of a relative, in an emergency shelter or other suitable licensed place, in a place exempt from licensure designated by the juvenile court, or in the assessed home of a nonrelative extended family member as defined in Section 362.7 for a period not to exceed 15 judicial days.

As used in this section, "relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of these persons, even if the marriage was terminated by death or dissolution. However, only the following relatives shall be given preferential consideration for placement of the child: an adult who is a grandparent, aunt, uncle, or sibling of the child.

The court shall consider the recommendations of the social worker based on the assessment pursuant to paragraph (1) of subdivision (d) of Section 309 of the relative's home, including the results of a criminal records check and prior child abuse allegations, if any, prior to ordering that the child be placed with a relative. The court shall order the parent to disclose to the social worker the names, residences, and any known identifying information of any maternal or paternal relatives of the child. The social worker shall initiate the assessment pursuant to Section 361.3 of any relative to be considered for continuing placement.

(g) (1) At the initial hearing upon the petition filed in accordance with subdivision (c) of Rule 1406 of the California Rules of Court or anytime thereafter up until the time that the

1 minor is adjudged a dependent child of the court or a finding is
2 made dismissing the petition, the court may temporarily limit the
3 right of the parent or guardian to make educational decisions for
4 the child and temporarily appoint a responsible adult to make
5 educational decisions for the child if all of the following
6 conditions are found:

7 (A) The parent or guardian is unavailable, unable, or unwilling
8 to exercise educational rights for the child.

9 (B) The county placing agency has made diligent efforts to
10 locate and secure the participation of the parent or guardian in
11 educational decisionmaking.

12 (C) The child's educational needs cannot be met without the
13 temporary appointment of a responsible adult.

14 (2) If the court cannot identify a responsible adult to make
15 educational decisions for the child and the appointment of a
16 surrogate parent as defined in subdivision (a) of Section 56050 of
17 the Education Code is not warranted, the court may, with the
18 input of any interested person, make educational decisions for the
19 child. If the court makes educational decisions for the child, the
20 court shall also issue appropriate orders to ensure that every
21 effort is made to identify a responsible adult to make future
22 educational decisions for the child.

23 (3) Any temporary appointment of a responsible adult and
24 temporary limitation on the right of the parent or guardian to
25 make educational decisions for the child shall be specifically
26 addressed in the court order. Any order made under this section
27 shall expire at the conclusion of the hearing held pursuant to
28 Section 361 or upon dismissal of the petition. Upon the entering
29 of disposition orders any additional needed limitation on the
30 parent's or guardian's educational rights shall be addressed
31 pursuant to Section 361.

32 ~~SEC. 7.~~

33 *SEC. 10.* Section 361 of the Welfare and Institutions Code is
34 amended to read:

35 361. (a) In all cases in which a minor is adjudged a
36 dependent child of the court on the ground that the minor is a
37 person described by Section 300, the court may limit the control
38 to be exercised over the dependent child by any parent or
39 guardian and shall by its order clearly and specifically set forth
40 all those limitations. Any limitation on the right of the parent or

guardian to make educational decisions for the child shall be specifically addressed in the court order. The limitations may not exceed those necessary to protect the child. If the court specifically limits the right of the parent or guardian to make educational decisions for the child, the court shall at the same time appoint a responsible adult to make educational decisions for the child until one of the following occurs:

(1) The minor reaches 18 years of age, unless the child chooses not to make educational decisions for himself or herself, or is deemed by the court to be incompetent.

(2) Another responsible adult is appointed to make educational decisions for the minor pursuant to this section.

(3) The right of the parent or guardian to make educational decisions for the minor is fully restored.

(4) A successor guardian or conservator is appointed.

(5) The child is placed into a planned permanent living arrangement pursuant to paragraph (3) of subdivision (g) of Section 366.21, Section 366.22, or Section 366.26, at which time the foster parent, relative caretaker, or nonrelative extended family member as defined in Section 362.7, has the right to represent the child in educational matters pursuant to Section 56055 of the Education Code.

An individual who would have a conflict of interest in representing the child may not be appointed to make educational decisions. For purposes of this section, “an individual who would have a conflict of interest,” means a person having any interests that might restrict or bias his or her ability to make educational decisions, including, but not limited to, those conflicts of interest prohibited by Section 1126 of the Government Code, and the receipt of compensation or attorneys’ fees for the provision of services pursuant to this section. A foster parent may not be deemed to have a conflict of interest solely because he or she receives compensation for the provision of services pursuant to this section.

If the court is unable to appoint a responsible adult to make educational decisions for the child and paragraphs (1) to (5), inclusive, do not apply, and the child has either been referred to the local educational agency for special education and related services, or has a valid individualized education program, the court shall refer the child to the local educational agency for

1 appointment of a surrogate parent pursuant to Section 7579.5 of
2 the Government Code.

3 If the court cannot identify a responsible adult to make
4 educational decisions for the child, the appointment of a
5 surrogate parent as defined in subdivision (a) of Section 56050 of
6 the Education Code is not warranted, and there is no foster parent
7 to exercise the authority granted by Section 56055 of the
8 Education Code, the court may, with the input of any interested
9 person, make educational decisions for the child.

10 All educational and school placement decisions shall seek to
11 ensure that the child is in the least restrictive educational
12 programs and has access to the academic resources, services, and
13 extracurricular and enrichment activities that are available to all
14 pupils. In all instances, educational and school placement
15 decisions shall be based on the best interests of the child.

16 (b) Subdivision (a) does not limit the ability of a parent to
17 voluntarily relinquish his or her child to the State Department of
18 Social Services or to a licensed county adoption agency at any
19 time while the child is a dependent child of the juvenile court, if
20 the department or agency is willing to accept the relinquishment.

21 (c) A dependent child may not be taken from the physical
22 custody of his or her parents or guardian or guardians with whom
23 the child resides at the time the petition was initiated, unless the
24 juvenile court finds clear and convincing evidence of any of the
25 following:

26 (1) There is or would be a substantial danger to the physical
27 health, safety, protection, or physical or emotional well-being of
28 the minor if the minor were returned home, and there are no
29 reasonable means by which the minor's physical health can be
30 protected without removing the minor from the minor's parent's
31 or guardian's physical custody. The fact that a minor has been
32 adjudicated a dependent child of the court pursuant to
33 subdivision (e) of Section 300 shall constitute prima facie
34 evidence that the minor cannot be safely left in the physical
35 custody of the parent or guardian with whom the minor resided at
36 the time of injury. The court shall consider, as a reasonable
37 means to protect the minor, the option of removing an offending
38 parent or guardian from the home. The court shall also consider,
39 as a reasonable means to protect the minor, allowing a
40 nonoffending parent or guardian to retain physical custody as

1 long as that parent or guardian presents a plan acceptable to the
2 court demonstrating that he or she will be able to protect the
3 child from future harm.

4 (2) The parent or guardian of the minor is unwilling to have
5 physical custody of the minor, and the parent or guardian has
6 been notified that if the minor remains out of their physical
7 custody for the period specified in Section 366.26, the minor may
8 be declared permanently free from their custody and control.

9 (3) The minor is suffering severe emotional damage, as
10 indicated by extreme anxiety, depression, withdrawal, or
11 untoward aggressive behavior toward himself or herself or
12 others, and there are no reasonable means by which the minor's
13 emotional health may be protected without removing the minor
14 from the physical custody of his or her parent or guardian.

15 (4) The minor or a sibling of the minor has been sexually
16 abused, or is deemed to be at substantial risk of being sexually
17 abused, by a parent, guardian, or member of his or her household,
18 or other person known to his or her parent, and there are no
19 reasonable means by which the minor can be protected from
20 further sexual abuse or a substantial risk of sexual abuse without
21 removing the minor from his or her parent or guardian, or the
22 minor does not wish to return to his or her parent or guardian.

23 (5) The minor has been left without any provision for his or
24 her support, or a parent who has been incarcerated or
25 institutionalized cannot arrange for the care of the minor, or a
26 relative or other adult custodian with whom the child has been
27 left by the parent is unwilling or unable to provide care or
28 support for the child and the whereabouts of the parent is
29 unknown and reasonable efforts to locate him or her have been
30 unsuccessful.

31 (d) The court shall make a determination as to whether
32 reasonable efforts were made to prevent or to eliminate the need
33 for removal of the minor from his or her home or, if the minor is
34 removed for one of the reasons stated in paragraph (5) of
35 subdivision (c), whether it was reasonable under the
36 circumstances not to make any of those efforts. The court shall
37 state the facts on which the decision to remove the minor is
38 based.

1 (e) The court shall make all of the findings required by
2 subdivision (a) of Section 366 in either of the following
3 circumstances:

4 (1) The minor has been taken from the custody of his or her
5 parent or guardian and has been living in an out-of-home
6 placement pursuant to Section 319.

7 (2) The minor has been living in a voluntary out-of-home
8 placement pursuant to Section 16507.4.

9 ~~SEC. 8.~~

10 *SEC. 11.* Section 391 of the Welfare and Institutions Code is
11 amended to read:

12 391. At any hearing to terminate jurisdiction over a
13 dependent child who has reached the age of majority the county
14 welfare department shall do both of the following:

15 (a) Ensure that the child is present in court, unless the child
16 does not wish to appear in court, or document efforts by the
17 county welfare department to locate the child when the child is
18 not available.

19 (b) Submit a report verifying that the following information,
20 documents, and services have been provided to the child:

21 (1) Written information concerning the child's dependency
22 case, including his or her family history and placement history,
23 the whereabouts of any siblings under the jurisdiction of the
24 juvenile court, unless the court determines that sibling contact
25 would jeopardize the safety or welfare of the sibling, directions
26 on how to access the documents the child is entitled to inspect
27 under Section 827, and the date on which the jurisdiction of the
28 juvenile court would be terminated.

29 (2) The following documents, where applicable: social
30 security card, certified birth certificate, health and education
31 summary as described in subdivision (a) of Section 16010,
32 identification card, as described in Section 13000 of the Vehicle
33 Code, death certificate of parent or parents, and proof of
34 citizenship or residence.

35 (3) Assistance in completing an application for Medi-Cal or
36 assistance in obtaining other health insurance; referral to
37 transitional housing, if available, or assistance in securing other
38 housing; and assistance in obtaining employment or other
39 financial support.

1 (4) Assistance in applying for admission to college or to a
2 vocational training program or other educational institution and
3 in obtaining financial aid, where appropriate.

4 (5) Assistance in maintaining relationships with individuals
5 who are important to a child who has been in out-of-home
6 placement in a group home for six months or longer from the
7 date the child entered foster care, based on the child's best
8 interests.

9 (c) The court may continue jurisdiction if it finds that the
10 county welfare department has not met the requirements of
11 subdivision (b) and that termination of jurisdiction would be
12 harmful to the best interests of the child. If the court determines
13 that continued jurisdiction is warranted pursuant to this section,
14 the continuation shall only be ordered for that period of time
15 necessary for the county welfare department to meet the
16 requirements of subdivision (b). This section shall not be
17 construed to limit the discretion of the juvenile court to continue
18 jurisdiction for other reasons. The court may terminate
19 jurisdiction if the county welfare department has offered the
20 required services, and the child either has refused the services or,
21 after reasonable efforts by the county welfare department, cannot
22 be located.

23 (d) The Judicial Council shall develop and implement
24 standards, and develop and adopt appropriate forms, necessary to
25 implement this section.

26 ~~SEC. 9.~~

27 *SEC. 12.* If the Commission on State Mandates determines
28 that this act contains costs mandated by the state, reimbursement
29 to local agencies and school districts for those costs shall be
30 made pursuant to Part 7 (commencing with Section 17500) of
31 Division 4 of Title 2 of the Government Code.